

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

JEROME KELLEY

Plaintiff,

v.

**CRACKER BARREL OLD
COUNTRY STORE, INC.**

Defendant.

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Civil Case No. 2:07-CV-820-MEF

**MOTION AND MEMORANDUM OF LAW OF STEPHEN P. POCALYKO
TO WITHDRAW APPEARANCE AND HAVE NAME STRICKEN
AS ATTORNEY OF RECORD**

COMES NOW Stephen P. Pocalyko, hereby moving this Honorable Court for permission to withdraw his appearance and to have his name stricken as attorney of record for Defendant Cracker Barrel Old Country Store, Inc. (“Defendant”) and showing the Court as follows:

1.

Mr. Pocalyko of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., as admitted *pro hac vice*, appeared as an attorney of record in this matter as counsel for Defendant, along with lead counsel David E. Gevertz of Baker, Donelson,

Bearman, Caldwell & Berkowitz, P.C., as admitted *pro hac vice*, and local counsel Harriet Thomas Ivy of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.

2.

Effective April 25, 2008, Mr. Pocalyko has left the firm of Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. and will no longer be available to represent Defendant in this action.

3.

David E. Gevertz will remain as lead counsel for Defendant. Harriet Thomas Ivy will remain as local counsel for Defendant. All future pleadings and notices to be served upon Defendant shall be directed to David E. Gevertz and Harriet Thomas Ivy.

4.

This Motion is brought prior to trial and at a time that will not cause a delay in the trial of the case.

5.

Mr. Pocalyko's withdrawal does not alter the Court's jurisdiction in the action.

6.

Therefore, for the foregoing reasons, Stephen P. Pocalyko requests that the Court enter the attached Order granting his permission to withdraw his appearance and to have his name stricken as attorney of record for Defendant.

Respectfully submitted this 25th day of April, 2008.

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CALDWELL & BERKOWITZ, PC**
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/s/ Stephen P. Pocalyko
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*Attorneys for Defendant
Cracker Barrel Old Country Store, Inc.*

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ORDER

This matter having come before the Court on Stephen P. Pocalyko's Motion to Withdraw Appearance and Have Name Stricken As Attorney of Record,

IT IS HEREBY ORDERED that Stephen P. Pocalyko's Motion to Withdraw Appearance and Have Name Stricken As Attorney of Record is GRANTED and Stephen P. Pocalyko's appearance on behalf of Defendant Cracker Barrel Old Country Store, Inc. is withdrawn and his name is stricken as attorney of record for Defendant.

This _____ day of _____, 2008.

Honorable Wallace Capel, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing **MOTION AND MEMORANDUM OF LAW OF STEPHEN P. POCALYKO TO WITHDRAW APPEARANCE AND HAVE NAME STRICKEN AS ATTORNEY OF RECORD** with the Clerk of the Court by using the CM/ECF system which will send notification of such filing to the following CM/ECF counsel of record:

Keith Anderson Nelms, Esq.
Law Offices of Jay Lewis, LLC
847 So. McDonough St., #100, Montgomery, AL 36104
andynelms@andersonnelms.com

This 25th day of April, 2008.

/s/ Stephen P. Pocalyko
Stephen P. Pocalyko, Esq.
Admitted pro hac vice
Georgia Bar No. 582602